

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

LOUIS BRANCH,

No. C 11-01977 SBA (PR)

Plaintiff,

**ORDER TO SHOW CAUSE WHY  
CLAIMS AGAINST UNSERVED  
NAMED DEFENDANTS SHOULD  
NOT BE DISMISSED**

v.

WARDEN AYERS, et al.,

Defendants.

Plaintiff, a state prisoner, has filed a pro se civil rights action pursuant to 42 U.S.C. § 1983.

He has paid the full filing fee.

Venue is proper because the events giving rise to the claim are alleged to have occurred at the San Quentin State Prison, (SQSP), which is located in this judicial district. See 28 U.S.C. § 1391(b).

In his complaint, Plaintiff names the following Defendants: SQSP Nurse S. Newton; SQSP Correctional Lieutenants Arnold, B. Taylor, and Fuller; SQSP Inmate Appeals Coordinator R. Brau; SQSP Correctional Captain Fox; SQSP Associate Warden J. Allen; SQSP Associate Warden J. Curzon; SQSP Warden R. Ayers; and Chief of Inmate Appeals N. Grannis. Plaintiff seeks monetary damages and injunctive relief.

To date, Plaintiff has not filed a proof of service on any of the Defendants named above.

Rule 4(m) of the Federal Rules of Civil Procedure provides:

If service of a summons and complaint is not made upon a defendant within 120 days after the filing of the complaint, the court, upon motion or on its own initiative after notice to the plaintiff, shall dismiss the action without prejudice as to that defendant or direct that service be effected within a specified time; provided that if the plaintiff shows good cause for the failure, the court shall extend the time for service for an appropriate period.

Fed. R. Civ. P. 4(m). Here, Plaintiff's complaint has been pending for over 120 days and thus, absent a showing of "good cause," claims against the unserved defendants are subject to dismissal without prejudice. See Fed. R. Civ. P. 4(m).

Recognizing the fact that he is an incarcerated pro se litigant, the Court finds good cause

1 exists to extend the service deadline under Rule 4(m). Within **thirty (30) days** from the date of this  
2 Order, Plaintiff shall file proof that he has served the named Defendants. The failure to do so will  
3 result in the dismissal of all claims against these named Defendants without prejudice.


4 Even if a prisoner pays the fee and serves the complaint on his own, the Court is still  
5 required to review the action before it can proceed. See 28 U.S.C. § 1915A(a) (federal courts must  
6 engage in a preliminary screening of cases in which prisoners seek redress from a governmental  
7 entity or officer or employee of a governmental entity.) Once Plaintiff has filed proof that he has  
8 served the named Defendants, the Court will screen it in a separate written order.

9 It is Plaintiff's responsibility to prosecute this case. Plaintiff must keep the Court informed of  
10 any change of address and must comply with the Court's orders in a timely fashion. Failure to do so  
11 may result in the dismissal of this action for failure to prosecute, pursuant to Federal Rule of Civil  
12 Procedure 41(b).

13 Extensions of time are not favored, though reasonable extensions will be granted. Any  
14 motion for an extension of time must be filed no later than **fifteen (15) days** prior to the deadline  
15 sought to be extended.

16 IT IS SO ORDERED.

17 DATED: 9/16/11

  
SAUNDRA BROWN ARMSTRONG  
United States District Judge

UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

LOUIS BRANCH,

Plaintiff,

v.

AYERS et al,

Defendant.

Case Number: CV11-01977 SBA

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on September 20, 2011, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Louis Branch B-17786  
Correctional Training Facility  
P.O. Box 689  
Soledad, CA 93960

Dated: September 20, 2011

Richard W. Wieking, Clerk  
By: LISA R CLARK, Deputy Clerk